

# THE JEWISH VOICE

## AND OPINION

*Promoting Classical Judaism*

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### “Lawfare” and “Libel Tourism”: New Tools Used by Islamists to Shut Down Their Critics

Islamist groups throughout the world have found a new target in the West: the courts and the freedom of speech and due process that most Westerners take for granted.

“The Islamist movement has two wings—one violent and one lawful—which operate apart but often reinforce each other. While the violent arm attempts to silence speech by burning cars when cartoons of Mohammed are published, the lawful arm is maneuvering within Western legal systems,” said Brooke M. Goldstein, a practicing attorney who serves as the director of the Legal Project at the Middle East Forum and the director of the Children’s Rights Institute.

According to Ms. Goldstein, whose film, “The Making of a Martyr,” has been widely acclaimed, Islamists with financial means have launched “a legal jihad” in which they attempt to ma-

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### Bush Administration Won’t Intervene for Palestinian Terrorists Against Their American Victims

For the families of American citizens who have been the victims of Palestinian terror, the Bush administration’s decision last month essentially to side with them against the perpetrators, means the court cases the

### in US Courts

families have already won can be completed and others, many already on the docket, can proceed unhindered by government interference.

Up until the deadline of Feb 29, it was unclear what position the Department of Justice, spurred by the State Department, would take. According to Palestinian officials and their American attorneys, the State Department had been considering supporting the Palestinian Authority in its quest to avoid paying potentially hundreds of millions of dollars to American victims of Palestinian terror in Israel.

In the cases already  
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### Prof Steven Plaut’s Appeal Reverses Earlier Ruling: Israeli Court Almost Defends Freedom of Speech

A five-year-old legal case which pitted a far left-wing Ben-Gurion University professor against a politically conservative professor at Haifa University came to a close last month, when an appeals court in Nazareth over-

turned an earlier lower-court ruling that had awarded a legal victory to the left-winger.

In their decision, the panel of three judges ruled that Dr. Neve Gordon, a professor of Political Science with an interest in “Political The-

ory, Human Rights, and the Israeli-Palestinian Conflict” at Ben-Gurion University in Beer Sheva, had lied in his earlier testimony and that Dr. Steven Plaut’s description of Dr. Gordon’s academic record as consisting largely of “anti-

Israel hate propaganda misrepresented as scholarship” was not only protected speech, but entirely legitimate.

The panel ruled that Dr. Plaut’s admittedly sarcastic and harsh criticism of aca-  
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demics he described as anti-Israel radicals, is protected as an expression of an opinion and does not constitute libel, as Dr. Gordon had argued.

Dr. Gordon's case was seen as a SLAPP suit, a Strategic Lawsuit against Public Participation, generally filed in order to suppress the freedom of expression of the defendant, in this case Dr. Plaut. Recognized as an anti-democratic harassment tactic used to silence critics, SLAPP suits can, in the US, result in serious fines for the party that files such cases. In Israel, there are no such penalties for SLAPP suits.

### "Impermissible Speech"

As a whole, the ruling of the appeals court was seen as a victory for free speech in a country where the principle of the right to express uncensored opinions is by no means clear. In Israel, the political left regularly seeks to curtail the freedom of speech by members of the political right.

The only part of the panel's ruling that certainly would not have stood up in a US court was its 2-1 decision that Dr. Plaut's description of Dr. Gordon and his like-minded colleagues as "Judenrat wannabes" was not permissible speech, even though Dr. Plaut intended to criticize what he said was criminal behavior on

Dr. Gordon's part.

The panel ordered Dr. Gordon to return 90 percent of the 100,000 shekels (almost \$28,000) in damages the lower court had awarded him from Dr. Plaut. The panel allowed Dr. Gordon to retain 10,000 shekels (almost \$2800) because two of the three appeals judges said they thought this would effectively deter use of Holocaust era imagery in public political debate in Israel.

A free-speech advocate, Dr. Plaut pointed out the hypocrisy of an Israeli court, which sees, as protected speech, the regular denunciation of Israel and Zionism as "Nazism" and "genocidal" by Jewish leftists and Arabs, but would not extend the same freedom to a critic of the extremists on the left.

### Insults

The case began in 2003, when Dr. Gordon filed suit against Dr. Plaut for essentially writing an insultingly negative review of an essay published by the BGU professor in *Ha'aretz*.

In fact, Dr. Plaut had been criticizing Dr. Gordon, a prolific writer who espouses far-left political positions, for some time on the Internet, but Dr. Gordon seized on two comments which he found particularly grievous. In one, Dr. Plaut described

Dr. Gordon as a groupie of Holocaust denier Norman Finkelstein. Dr. Plaut, who did not call Dr. Gordon as Holocaust denier, pointed out that, in his *Ha'aretz* review of Mr. Finkelstein's book, *The Holocaust Industry*, the BGU professor compared Mr. Finkelstein favorably to the Prophets in the Bible.

Most serious reviewers found that *The Holocaust Industry* trivializes and mocks the Holocaust and characterizes survivors as liars, thieves, and cheats. Based on this book and other writings, Mr. Finkelstein has been denounced as a Holocaust denier, a neo-Nazi, Jewish antisemite, fraud, and pseudo-researcher by nearly every respectable reviewer who has written about him. The *New York Times* compared his book to the *Protocols of the Elders of Zion*.

Dr. Gordon, however, has published articles praising Mr. Finkelstein, many of which pleased Mr. Finkelstein sufficiently to post them on his website. Some of them have found their way from there onto the websites of non-Jewish Holocaust deniers and antisemites.

### Judenrat Wannabe

The other comment made by Dr. Plaut that upset Dr. Gordon dealt with Dr. Gordon's decision, in 2002, during the

Second Intifada, to violate Israeli law by entering the headquarters of Yasir Arafat presumably to serve as a human shield to defend wanted Palestinian terrorists. This occurred at the height of Operation Defensive Shield, then-Prime Minister Ariel Sharon's attempt to stop Arab violence in the wake of the Passover massacre in Netanya.

At the time, Mr. Arafat was offering his compound as a safe haven to the murderers of Israeli Tourism Ministry Rehavam Ze'evi.

When *Ha'aretz* and other Israeli dailies published Dr. Gordon's photo showing him in a solidarity embrace with Mr. Arafat, Dr. Plaut responded in an Internet post in which he said that people who appoint themselves representatives and liaisons to mass murderers of Jews might be described as "Judenrat wannabes."

The article was titled "Judenrat for Peace." Other commentators at the time called the human shields "traitors."

### Par for the Course

The loving review of Mr. Finkelstein's book and the rush to be photographed with Mr. Arafat were not out-of-keeping with other articles written by Dr. Gordon, most of which attack Israeli policies or denounce Israel as a terrorist state.

In his writings, Dr. Gor-

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don repeatedly insists that Israel is a fascist state that engages in state terrorism that is no different morally from the mass atrocities of Palestinians and other terrorists. He has denounced "Israeli fascism" not only in English and Hebrew, but also on websites in German and Italian. He insisted that former Prime Minister Ariel Sharon delighted in the deaths of Arabs and Jews, and, before the Americans invaded Iraq, he signed petitions declaring that Israel was planning to perpetrate atrocities and massive crimes against humanity once war broke out.

Dr. Gordon has repeatedly endorsed general boycotts against Israel, and his articles are carried regularly by pro-boycott websites, magazine, and organizations. Dr. Gordon has claimed that he does not place his articles with these groups, just as he says he has not posted the ones that have appeared on grossly antisemitic and pro-terror websites. His critics say that the fact that these groups carry his work speaks volumes about their content.

Dr. Gordon is one of the few Israelis whose work has been cited with honor on the website of convicted British Holocaust Denier David Irving.

**Extremist Groups**

Dr. Gordon's behavior has been just as controversial. For example, despite his not be-

ing a physician, he at one time headed Physicians for Human Rights in Israel, a pro-Arab group so extreme it was publicly denounced by the Israel Medical Association and condemned as openly antisemitic by Prof Gerald Steinberg of Bar Ilan University, who, together with 200 other Israelis, signed a petition to that effect.

For many years, Dr. Gordon was active in Taayush, which Dr. Gordon himself described as a seditious organization that "opposes Arab-Jewish coexistence." He has also been active among those Israeli and international leftists seeking to interfere with Israeli military operations. He has worked with the International Solidarity Movement, trying to prevent Israeli actions against terrorism, and, according to his publicly announced admission, he was arrested for this at least once.

Dr. Gordon has also accused his former army commander, Gaza Brigade Commander Gen. Aviv Kochavi, of "war crimes." As a result, Mr. Kochavi, who has not been accused by any Israeli officials of any wrong-doing, was warned by the IDF not to enroll at the Royal College of Defense Studies in England. The IDF feared Mr. Kochavi might be at risk for "war crimes" prosecution based on Dr. Gordon's allegations.

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### "Inspired"

Although Dr. Plaut has described Dr. Gordon as an antisemite, based solely on his published material and publicly announced activities, in his lawsuit, Dr. Gordon accused the Haifa University professor of libeling him in several articles that were not published by Dr. Plaut at all.

Undeterred, Dr. Gordon responded that the articles in question were "inspired" by Dr. Plaut.

In his suit, Dr. Gordon claimed Dr. Plaut had called him a "Jew for Hitler" and a Holocaust denier, and went so far as to produce an affidavit from his colleague at BGU, Prof Renee Poznanski, to support this claim.

### Denied Accusation

Dr. Plaut, who said he knew nothing about Dr. Gordon personally and had never even met him before the lawsuit was initiated, denied that he had ever called Dr. Gordon either of those terms.

Dr. Gordon also claimed that a series of other pieces by Dr. Plaut were libelous, including the charge that Dr. Gordon's "academic record" consisted largely of anti-Israel propaganda misrepresented as research and scholarship.

Dr. Gordon demanded that Dr. Plaut be forced to compensate him.

There was no doubt that Dr. Gordon had reasons for wanting to silence Dr. Plaut, a creative conservative writer whose fertile mind frequently reduces the issue in question to absurdity, using wit and humor to skewer the Israeli left. In his articles, published in a wide variety of venues, Dr. Plaut frequently exposes the extremism of Israeli leftists. He is blunt about what he regards as "Israel's academic Fifth Column," and is a founder of ISRAELCAMPUS.org, a monitoring group comprised of a consortium that exposes political extremism and bias on Israeli campuses.

### Choosing Nazareth

Most independent observers believed the case against Dr. Plaut was frivolous and would disappear quickly. Some old-timers believed it was similar to another famous case in which a left-wing professor of philosophy at Tel Aviv University sued four people, including two other professors, for libel. When he lost, he was ordered to pay the defendants large sums for court costs and damages.

But history did not repeat itself for Dr. Plaut, at least not initially. The case got off to a bad start for the defendant when, following Israeli law, the plaintiff was allowed to select the court to

hear the case, even if neither parties reside in that area.

Dr. Gordon and his Israeli-Arab attorney, Fareed Ghanam, picked the predominantly Arab community of Nazareth, where Nazareth Magistrate Court Judge Reem Naddaf, an Arab woman, found Dr. Plaut guilty of libel.

### Selective Traitors

Israeli journalist and Yale-trained attorney, Jonathan Rosenblum described the Kafkaesque situation in which Dr. Plaut found himself. "Gordon stands for the proposition that, as far as the Israeli legal system is concerned, there is no such thing as traitorous speech. On the other hand, calling such speech by its name may be libelous. While Gordon does not exactly restrain his tongue or his pen, he would prefer others to restrain theirs when speaking about him," said Mr. Rosenblum, calling Judge Naddaf's ruling "unbelievable."

Part of the judgment against Dr. Plaut was based on an anonymous satirical email sent to Dr. Gordon "consoling" him on the death in a targeted killing of Hamas's leading bomb maker. Dr. Plaut denied that he had written the email and testified that he had done nothing more than forward it to his email list. There was no evidence to the contrary.

"Nevertheless, the satiric joke—a clear expression of opinion—was deemed libelous," said Mr. Rosenblum.

### Paltry

Judge Naddaf also found libelous a posting by Dr. Plaut in which he described the number of Dr. Gordon's scholarly publications as "paltry."

According to Mr. Rosenblum, at the time Dr. Plaut made that observation it was

unquestionably true. "That it is no longer true is more a testament to the standards of left-wing scholarly journals than to Gordon's scholarship," Mr. Rosenblum noted wryly.

In her ruling, Judge Naddaf faulted Dr. Plaut for not removing the no-longer valid articles from various websites, a doctrine Mr. Rosenblum called "novel."

### Who Writes Headline?

Turning her attention to the article Dr. Plaut had written on Dr. Gordon's loving review of Mr. Finkelstein's book, Judge Naddaf seemed to find the headline, "*Ha'aretz* Promotes Jews for Hitler," the most egregious item. Although Dr. Plaut explained that the editor had written the headline, and not he, Judge Naddaf, nevertheless, found Dr. Plaut liable for it.

Mr. Rosenblum pointed out that it is not even clear that "Jews for Hitler" refers to Dr. Gordon. It most certainly includes Mr. Finkelstein, and, in his article, Dr. Plaut criticized *Ha'aretz* for giving *The Holocaust Industry* to Dr. Gordon for review. Others whom Dr. Plaut lambasts in the article include Noam Chomsky and the editors of the far-left *Tikkun* magazine.

"The most reasonable understanding of the headline is that 'Jews for Hitler' is a metaphoric club of which Finkelstein is the prime example," said Mr. Rosenblum.

### Literal Translation

In her discussion of the "*Judenrat* for Peace" article, Judge Naddaf took the headline literally, interpreting it to mean that Dr. Plaut had called Dr. Gordon a collaborator with Hitler in his plans to destroy the Jewish people.

"Plaut was clearly engaging in a Holocaust meta-

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phor: Just as during the Holocaust the *Judenrat* assisted in the killing of their fellow Jews, so do Gordon and his ilk today. While this may not dovetail with Judge Naddaf's estimate of Arafat, evidence of his role in financing and directing terror attacks against Israeli Jews right up until his death is hardly in short supply," said Mr. Rosenblum.

Although Dr. Gordon never claimed to have suffered any material damages, Judge Naddaf ordered Dr. Plaut to pay him 100,000 shekels (\$20,000) and an additional 17,500 shekels (\$3500) in court costs.

**Holocaust "Re-thinking"**

In her decision, she attacked Dr. Plaut for engaging in "the phenomenon where anyone who dares to re-investigate the events of the Holocaust and its dimensions, from various aspects, whether it be human, historic, scientific, political, etc, auto-

matically becomes a target of attacks and accusations as an antisemite or a Holocaust denier worthy of the title *Judenrat* or Jew for Hitler."

She called Dr. Plaut's opinion of Dr. Gordon "incomprehensible" and "unjustifiable" and said "it opposes the principles of democracy."

"It is impossible and unacceptable to turn the subject of the Holocaust into a 'taboo,' a subject that cannot be studied or analyzed outside of the consensus and the 'permissible,' as the defendant claims," she said.

**Denying Free Speech**

Los Angeles-based activist Allyson Rowen Taylor, a founding member of the pro-Israel group, Standwithus.com and the mother of two young men, one of them an IDF soldier, said Judge Naddaf's "tortuous defense of the 'freedom to question' regarding the Holocaust is not being used to defend dissident

freedom of speech, but rather to justify her denial of that freedom of speech to Plaut."

Free speech would mean allowing Dr. Gordon to engage in his anti-Israel rants and then allowing Dr. Plaut to criticize them, she said.

Ms. Taylor noted that the judge also defended Dr. Gordon's defense of Mr. Arafat as well as Mr. Finkelstein's accusation that Israel has used the Holocaust to force international support for the establishment of the Jewish state "on another nation's lands."

Judge Naddaf called Mr. Arafat "the legitimate leader of his people" and defended the illegal activities of the "human shields" as "legitimate protest."

**Israel's Alabama**

"So, for Judge Naddaf, Gordon is within his legal rights to obstruct IDF operations in times of war and to support Finkelstein's marginalization of the crimes of the

Holocaust, but Plaut is guilty of libel for opining that it is wrong for Gordon to do so," said Caroline Glick, columnist and deputy managing editor of the *Jerusalem Post*.

Mr. Rosenblum, however, saw something more sinister. He likened Dr. Gordon's suit to a strategy employed by Southern segregationists at the height of the American civil rights movement. In an effort to bankrupt civil rights organizations, the segregationists devised libel suits to be tried before local red-neck Southern juries in states such as Alabama.

In 1964, the US Supreme Court ended that strategy by making it almost impossible for public figures to sue for libel unless they could prove their opponents knew the statements were false or were engaged in reckless disregard for the truth. Matters of opinion, such as Dr. Plaut's articles, were beyond the reach  
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of libel law in the US.

"Inveterate Israel-basher Gordon has succeeded in turning Nazareth Magistrate's Court into Israel's Alabama," said Mr. Rosenblum.

### Choice of Venue

And, he said, the choice of venue was no accident. Dr. Gordon resides in Jerusalem, and Dr. Plaut lives in Haifa. Mr. Rosenblum suggested Dr. Gordon and his Israeli-Arab attorney chose to press their suit in Nazareth, which Ms. Taylor called "a bastion of Arab radicalism," because Dr. Gordon wanted "a strong likelihood of a judge who would share his politics."

According to Ms. Taylor, most of the judges on the Nazareth magistrate's bench are Israeli Arabs, and, she said, Judge Naddaf may be one of that court's most openly political and extremist Arab judges.

"In Judge Naddaf, Gordon drew the Arab judge he sought," said Mr. Rosenblum.

### "Holocaust Denial Judge"

Ms. Taylor called Judge Naddaf "the Holocaust Denial Judge," based on her ruling which seems to endorse Holocaust revisionism.

According to Ms. Taylor, this is not the first time Judge Naddaf has been taken to task for poor judgment. She maintained that, a few years ago,

Israeli Supreme Court Chief Justice Aharon Barak strongly criticized Judge Naddaf for refusing to recuse herself from a case in which the lawyer for one of the parties was also representing the judge's aunt in another case against the judge's own mother.

"In recent years, Israel has introduced a policy of 'affirmative action' in its public service in the form of appointing women and Arabs—especially women Arabs—who do not necessarily have top qualifications for the positions in question. Nazareth Magistrate's Court Judge Naddaf had been the court's registrar before being promoted to a judgeship," said Ms. Taylor.

Like Mr. Rosenblum and Dr. Plaut, Ms. Taylor decried the status of freedom of speech in Israel. She said that although there is precedent for the defense of free speech in the Israeli courts, it is all too often ignored by too many justices, especially when the defendant represents the nationalist camp.

She maintained that other Israeli courts have defended the right to denounce and criticize public figures, such as Dr. Gordon, as protected speech.

"Satire is always supposed to be protected. There is even court precedent that says call-

ing someone a Nazi in Israel is protected speech, especially when it refers to someone with extremist political opinions. Plaut never called Gordon a 'Nazi' or even a 'Holocaust denier,' but, even if he had, it should have been protected speech," she said.

### Appeals

Within weeks of Judge Naddaf's ruling, Dr. Plaut's attorneys filed an appeal, and so did Dr. Gordon. Dr. Gordon demanded an award of 400,000 shekels (\$111,000) plus much larger costs. He also demanded that the court coerce Dr. Plaut to issue a public apology for his writing.

According to Israeli law, an appeal must be filed in the same district court where the first legal round was held. Dr. Plaut was stuck with Nazareth.

But before the appeal was considered, Dr. Gordon seemed to have met his match in a legendary legal figure whose decision to weigh in on this case perhaps should have served as an indication as to how it would eventually end.

### A Challenge

After hearing the details of the case, Harvard law professor and author Alan Dershowitz issued a challenge, in writing, to Dr. Gordon to sue him as well.

"Here is my challenge to Neve Gordon: I visit Is-

rael frequently, and am easily available for service of process. I invite Gordon to sue me for essentially restating in my own words what Prof Plaut has said: It is my opinion that Neve Gordon has gotten into bed with neo-Nazis, Holocaust justice deniers, and antisemites. He is a despicable example of a self-hating Jew and a self-hating Israeli," wrote Mr. Dershowitz.

Mr. Dershowitz's involvement was undoubtedly prompted not only by the implicit unfairness in the way Dr. Plaut was treated by the court, but also by Dr. Gordon's public admiration for Mr. Finkelstein.

### Plagiarism

In 2003, when Mr. Dershowitz, an ardent, eloquent, and not always uncritical defender of the Jewish state, published his well-received book, *The Case for Israel*, Mr. Finkelstein initially suggested the book, which has been described as a proactive defense of Israel and almost an amicus brief to the court of public opinion, had been written by the Israeli Mossad.

When Mr. Dershowitz produced his hand-written manuscript, Mr. Finkelstein changed his story and claimed that, in the book, Mr. Dershowitz had plagiarized. *continued on page 24*

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rized information and ideas from Joan Peters's *From Time Immemorial*, a claim most scholars—including Harvard's own investigative team—dismissed.

The charge appears again in Mr. Finkelstein's book, *Beyond Chutzpah*, which, he said, "copiously documents that *The Case for Israel* is among the most spectacular academic frauds ever published on the Israel-Palestine conflict."

The animus between Messrs Dershowitz and Finkelstein prompted the latter to title his new book *Beyond Chutzpah* as a surly tweak at Mr. Dershowitz's 1991 best-seller *Chutzpah*.

### Censorship

In a positive review of *Beyond Chutzpah*, published by the *National Catholic Reporter*, Dr. Gordon devoted two paragraphs to the accusation that Mr. Dershowitz "tried to stop the University of California Press from publishing" the book, a claim that has also been proffered by Mr. Finkelstein.

Mr. Dershowitz, however, has correspondence between Mr. Finkelstein's publisher and himself, showing that he had "no interest in censoring or suppressing Finkelstein's freedom of expression." Rather, Mr. Dershowitz told the

publisher, he wanted what he considered to be libelous allegations to be removed.

The publisher agreed and reached a compromise with Mr. Finkelstein, allowing the book to be published without the offending sections.

When Dr. Gordon accused Mr. Dershowitz of trying to silence Mr. Finkelstein, the Harvard professor retorted, "What's ironic about Gordon's [accusation] is that just as he was falsely accusing me of trying to silence Finkelstein, he was trying to silence Steven Plaut."

### "Wrong"

Referring to Judge Naddaf's ruling in Profs Gordon's and Plaut's case, Mr. Dershowitz accused the judge of going "out of her way in her opinion's dicta to justify Holocaust revisionism, which of course goes over the line into something far darker, as it does when Finkelstein espouses it to mock survivors and condemn those seeking justice."

Her decision, he said, was "wrong" both substantively and legally.

"First, as to substance, Gordon argued, dubiously, that Plaut meant to include him (Gordon) when he wrote 'Jews for Hitler,' rather than Finkelstein and his fellow-travelers such as Noam Chomsky, who

have openly endorsed Holocaust deniers and revisionists," said Mr. Dershowitz.

Having said that, however, Mr. Dershowitz acknowledged that, considering Dr. Gordon's public admiration for Mr. Finkelstein, he believed there may be a factual basis behind the claim that Dr. Gordon "supports genocidal antisemites."

"The major theme of the Finkelstein book that Gordon was extolling is that Jews are responsible for antisemitism," said Mr. Dershowitz, quoting from the book: "Alongside Israel, [American Jewish elites] are the main fomenters of antisemitism in the world today. They must be stopped."

### Modest and Severe

Defending himself in the *Jerusalem Post*, Dr. Gordon denied that he is a neo-Nazi or anti-Israel, and, he said, he has never compared Israelis to Nazis.

"Following the great Jewish tradition, I try, however modestly, to be critical of Israel whenever its policies violate principles of justice or human rights," he wrote, adding that he still believes Mr. Dershowitz is guilty of plagiarism and attempting to prevent *Beyond Chutzpah* from being published.

Later in his piece, he dis-

counted his earlier characterization of himself as a "modest" critic of Israel and wrote, "Yes, I am a severe critic of the Israeli government's policies, but just as I want my opinions to be heard, I believe in freedom of expression and am not interested in censoring other people's opinions, including those of Dershowitz or Plaut."

### Why He's Suing

Then why is he suing Dr. Plaut? Because, he said, the Haifa University professor called him "an antisemite, *Judenrat* wannabe, and promoter of Hitler."

"The use of Holocaust vocabulary is intentional and emotive, designed to destroy my credibility in the political arena," he wrote.

Dr. Gordon said he was suing Dr. Plaut for slander because the Haifa University professor had "published an article on the racist Kahane website, asking his readers to harass me—some obediently complied; he also disseminated the falsehood that my academic ability is poor, and even initiated an international campaign to have me fired."

Dr. Plaut denied that he had ever posted any of his articles on a Kahane website,

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## Freedom of Speech continued from page 24

but he recognized that just as Dr. Gordon's pieces may wind up on neo-Nazi websites, his may be used by those who appreciate his politically conservative, pro-Zionist views. Dr. Plaut also denied that he had ever encouraged anyone to "harass" Dr. Gordon.

Dr. Gordon called Mr. Dershowitz's challenge to sue him, too, "a cheap dare."

### Misguided Judgment

But when the appeals court in Nazareth met last month, Dr. Gordon's entire case was torn asunder. The three judges, like Mr. Dershowitz earlier, ruled that Judge Naddaf's judgment was replete

with errors, for which the panel criticized her roundly. In fact, her ruling had been strongly denounced as biased and anti-democratic in articles published throughout the world.

The appeals court rejected all of Dr. Gordon's demands, and accepted virtually all those made by Dr. Plaut. It ruled that Dr. Gordon had lied when he claimed Dr. Plaut had called him a "Jew for Hitler" and a "Holocaust denier," and the judges singled out Judge Naddaf for criticism for erroneously ignoring that Dr. Gordon had lied.

The judges seemed to agree with

Dr. Plaut that Dr. Gordon's anti-Israel and anti-Jewish writings were extreme. Several witnesses noted that the judges carefully read the articles in which Dr. Gordon described Israel as a fascist, Nazi-like, apartheid state.

Just recently, in fact, Dr. Gordon published a piece in which he called for Israel to be annihilated altogether as part of a so-called "one-state solution" in which Israel and Palestine would meld into one entity and the Jewish state would cease to exist.

### No *Judenrat*

During the court proceedings, Dr. Plaut repeatedly described Dr. Gordon's public behavior as that of an antisemite, and the judges did not overrule him.

One of the judges, Avraham Avraham, ruled that if Dr. Plaut had described Dr. Gordon as "Jew for Hitler," he would have been within his rights.

But Judge Avraham was overruled by the other two panel members when it came to recognizing Dr. Plaut's right to describe Dr. Gordon and his colleagues at Mr. Arafat's headquarters as "*Judenrat* wannabees." Judge Avraham's colleagues ruled that it was "impermissible speech."

### Precedent

According to some observers, the decision to reverse only 90 percent of the damages on Dr. Plaut's behalf instead of all of them was based on an Israeli Supreme Court decision last year in which the editor of *Ma'ariv*, Amnon Denkner, was ordered to pay a single shekel to a Kahanist, Itamar Ben Gvir, because Mr. Denkner had called Mr. Ben Gvir "a little Nazi" on television.

The ruling in that case, written by Judge Ayala Procaccia, widely recognized as a proponent of "judicial activism," claimed that the courts, rather than protect free speech, should attempt to suppress "impolite" public rhetoric that makes use of Holocaust imagery.

The appeals court in Nazareth ruled to allow 10 percent of the damages to remain against Dr. Plaut for the same reason.

### Appealing for Freedom

Although he was pleased with the outcome, Dr. Plaut is considering launching another appeal to the Israeli Supreme

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Court, claiming that “the judicial system in Israel has been very weak in defending freedom of speech for those who do not belong to the Far Left.”

“Political dissidents who are not from the Left have rarely had their freedom of speech defended by the courts or the Prosecution in Israel,” he said.

Other items he might want to see cleared up in an appeal to the Supreme Court are the matter of Israel’s allowing SLAPP suits to harass and silence political opponents and whether Judge Naddaf should be removed from the bench.

Dr. Plaut said it was “unfortunate” that the appeals court “balked from going the extra few centimeters needed” to be entirely protective of free speech. The court, he said, “failed to rule that the criminal, seditious, pro-terror political activities of an antisemite may be legitimately denounced using Holocaust terminology.”

**Moral Victory**

Regarding the comparatively small residual payment the court declined to refund to him, Dr. Plaut said it might not be worth the money an appeal to the Supreme Court would cost.

“The victory is a moral one. Beating Gordon in the Nazareth Court was like beating him in PLO headquarters or beating Ahmadinejad in court in Teheran,” he said.

He joked that he would find it “infinitely amusing that, henceforth, Neve Gordon will be intimately linked in Israel’s legal system with Kahanist Itamar Ben Gvir as two comrades who legally snipped the margins of free speech in Israel.”

Dr. Plaut said he was considering raising a few hundred thousand shekels “to encourage harsh denunciations of anti-Zionist extremists and leftist traitors,” using any terminology at all. He said he might be willing to pay the legal costs incurred by anyone willing to denounce such people.

**BGU**

Turning serious, Dr. Plaut said one of the real losers in the case was Ben-Gurion University, whose policies, he said, allow “anti-Israel radicals” to be hired and promoted “on the basis of turning out anti-Israel and antisemitic hate propaganda and then misrepresenting it as scholarship.”

“Academic standards have been trashed in some departments at BGU in

the campaign by the officials there to fill the campus with post-Zionists and leftist extremist pseudo-scholars,” he said.

He said his near-complete court victory will produce an “escalated exposure and criticism of Israel’s academic Fifth Column and the failure to enforce academic standards when it comes to anti-Israeli extremists.”

**ISRACAMPUS**

That is a subject he, as director of ISRACAMPUS, formerly Israel Academia Monitor, knows well.

ISRACAMPUS, which can be accessed at [www.isracampus.org.il](http://www.isracampus.org.il) and by email at [isracampus@gmail.com](mailto:isracampus@gmail.com), was modeled in part on Campus Watch in the

US. Its mission is to monitor and expose the anti-Israel, and sometimes antisemitic, political activities, writings, and pronouncements of Israel’s far-leftist academic extremists.

“Israeli universities contain hundreds of faculty members who, like Neve Gordon, are active in promoting boycotts of Israel, organizing IDF soldiers for mutiny and refusal to serve, promoting law breaking, and collaborating with anti-Israel groups attempting to delegitimize the Jewish state as a fascist, terrorist, racist, apartheid entity. Students, professors, donors, alumni, journalists, and others participate in ISRACAMPUS and help it gather materials,” he said. S.L.R.

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